

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF ADJUSTMENT  
OF THE CITY OF ROWLETT, TEXAS HELD IN THE ROWLETT  
MUNICIPAL CENTER, 4000 MAIN STREET, ROWLETT, TEXAS  
AT 7:00 P.M., APRIL 4, 2011**

**PRESENT:** Chairman Jerry Galloway; Members, Raymond Moyer, Michael Lucas;  
Alternate Jarvis Morgan

**ABSENT:** Vice-Chairman Juan Vasquez, Member Charles Lee, Alternate Edra Brashear

**ALSO PRESENT:** Assistant City Engineer Tom Harris

**STAFF PRESENT:** Erin Jones, Planning Manager; Marc Kurbansade, Senior Planner; Ashley  
McCoy, Development Services Technician

**1. Call to Order.**

Chairman Jerry Galloway called the meeting to order at 7:06 pm.

**2. Consider approval of the minutes of the Regular Meeting of the Board of Adjustment from January 3, 2011.**

Member Raymond Moyer made a motion to approve the minutes of the regular meeting of the Board of Adjustment from January 3, 2011. Member Michael Lucas seconded the motion. Motion carried with a 4-0 vote.

**3. Conduct a public hearing and take appropriate action on an interpretation of the nonconforming status of an existing structure. The applicant seeks to present evidence that there was a clear intent not to abandon the nonconforming structure located at 4115 Dalrock Road. Pursuant to Section 77-902.F of the Rowlett Development Code, the Board of Adjustment may consider evidence by the owner that there was a clear intent not to abandon the use, structure or property even though the use, structure or property was discontinued for 180 days or more. The subject property is located at 4115 Dalrock Road, being Lot 1 of the Marian Addition.**

Marc Kurbansade, Senior Planner came forward to present the case. He presented a map of the location of the property and gave a timeline of communication with the applicant. He stated that in May of 2010 the applicant filed for a Certificate of Occupancy and at that time the structure was considered a legal non-conforming use and fell within the 180 days before abandonment of use. Mr. Kurbansade noted that from May to October, numerous attempts were made to establish contact with the applicant including a letter sent via certified mail with no success therefore the CO application was withdrawn and the use deemed non-conforming. If the applicant wished to reinstate the legal non-conforming status, it was necessary to go before the Board. He stated that nine public hearing notices were mailed with one returned in favor.

Mr. J B Wascom, 9617 Baskerville Rockwall TX 75087, and his wife Sheri came forward to present that they once had a thriving business located in the building but that in August of 2008 a death in the family prompted them to bring someone in to help manage the property and the business. Mr. Wascom stated that in November of 2008 he was informed that his business was being taken over against his will and he filed reports with Detective Latham, retired Rowlett Police Department, and the FBI. He also stated that his life was threatened on multiple occasions and that he was force to sign documents that he was retiring and they would retain the business. Mr. Wascom said after

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approximately six months, the business was abandoned and the building vacated. He hired an attorney in 2009 to file a civil suit to regain possession of the business and building, which resulted in a final judgment in his favor in December of 2010. During this time, the lien holder foreclosed in March of 2010 in turn selling it back to Mr. Wascom who gained legal possession of the building through court order on December 6, 2010. In the time since the judgment, the Wascoms have been making minor repairs to the building trying to make it suitable for their business to once again occupy the space.

Board member Michael Lucas asked why the Wascoms did not notify the City after their contact information had changed since they were trying to re-occupy the building. Mrs. Wascom responded that they had not thought to do so with everything else going on. Mr. Wascom pointed out that the people that had taken over his business had stolen approximately four million dollars and left behind large unpaid bills. Alternate Board member Jarvis Morgan inquired about the post office box that certified letters were mailed to and whether it had been closed out. Mrs. Wascom stated that the post office box was obtained for the use of one client and once the client was no longer using it, she didn't check the box anymore. Chairman Galloway noted that the Board does not set policy but it is their responsibility to determine from the evidence presented whether the intent was to abandon the building and points out that after the first Certificate of Occupancy submittal, calls and letters from the City attempting to establish contact went unanswered. Mrs. Wascom responded they were unaware that the calls were coming from the City and that they had met with Bryan Beckner, the Fire Marshal, in Summer 2010 who had given them a list of things to be corrected but they were not given access to the building until thirty days after the court judgment.

Chairman Galloway closed the public hearing and asked the Board for any discussion. He expressed sympathy towards the Wascoms but felt that no evidence had been presented to the contrary of abandonment. Alternate Board member Jarvis Morgan made a motion to deny the request that there was a clear intent not to abandon the use. Motion seconded by Board member Raymond Moyer. Motion passes with a 4-0 vote.

- 4. Conduct a Public Hearing and take appropriate action on a variance request from residential landscape standards found in Chapter 77-504 of the *Rowlett Development Code* as they pertain to entryway/buffer landscaping, and entryway screening walls. The subject property is located on the west side of Scenic Drive approximately 200 feet north of Nottingham Court and approximately 125 feet south of Fairmont Circle, being 12.90± acres, in the W. Crabtree Survey, Abstract 60, Rockwall County.**

Erin Jones, Planning Manager came forward to present the case. She presented a location map and stated that the subject property was platted in 2005 and in December of 2010 a Planned Development was approved allowing for a change in lot sizes triggering a replat of the property. Mrs. Jones stated that while reviewing the plat, it was determined that there was not adequate space to meet the requirements for entryway landscaping and the applicant is requesting a variance for a twenty-five percent reduction in overall entryway landscaping, a variance from evenly distributing landscaping on either side of the entryway, as well as a variance from the requirement to provide a screening wall entry feature. She also stated that the main reason for the request is that the City Engineer required a deceleration lane off Scenic Drive and also a dedicated left turn

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lane out of the subdivision and a significant visibility triangle and that the proximity of the culvert at the entrance does hinder some of the space that could be used for landscape area. Mrs. Jones reviewed the criteria set forth in the Rowlett Development Code for granting a variance and stated that the applicant is meeting the intent of the ordinance by providing landscaping within the entrance to the subdivision to the greatest extent possible and that staff would recommend approval of the request. Board member Raymond Moyer asked if there was something preventing them from moving the lower property lines to allow for more landscaping and Mrs. Jones responded that the area adjacent is the City of Dallas Take Area and to shift the upper lots would require going through the zoning process again to amend the PD and would still not provide enough square footage to meet the landscaping requirements. Chairman Jerry Galloway opened the public hearing and asked the applicant to come forward. Rich Alberque, 7405 Covewood Dr, Garland, TX, Division President for the applicant stated even with the reduction of landscaping, the entryway will be shielding the first lots from view and that with the deceleration and dedicated turn lane the landscaping requirements cannot physically be met. Chairman Galloway then recognized Rebecca Mikolai, 9217 Fairmont Circle, Rowlett, TX 75088, to speak. Mrs. Mikolai verified that the issue before the Board was not whether or not the subdivision would be allowed and expressed concerns about the issues that more homes in the neighborhood would cause. Her nine year old son, Sage Hollander, read aloud a petition against the development and a proposal of the surrounding neighborhood to claim and beautify the area. Board member Moyer asked Mrs. Mikolai if she would prefer to have the turn lanes to which she responded she would feel safer with turn lanes in place. Raymond Slater, 9009 Millwood Dr. Rowlett, TX 75088, came forward to inquire if any traffic signals would be put in place to help the flow of traffic and Mrs. Jones responded that there would not and the dedicated turn lane and deceleration lane would serve as traffic calming measures. His nine-year old son, Dylan Slater, came forward to read a statement opposing the new development. Board member Moyer asked Mr. Slater if he also would feel safer with the turn lanes or would prefer to not have them and Mr. Slater responded he would rather have the lanes. Alan Terry, 9113 Fairmont Circle, Rowlett, TX 75088, came forward to inquire about the process for stopping the development and Chairman Galloway responded that they should contact their elected representatives. Mr. Terry stated that he would also feel safer with the turn lanes. Mr. Slater asked when the subdivision was approved and Mrs. Jones replied that it was approved the second time around in September of 2010 and originally in 2005 under straight zoning. Mr. Slater then asked if the Board denied the request for the landscaping variance if the applicant would then not be allowed to build on the land and Mrs. Jones responded that was not the case and that the dedicated turn lane and the deceleration lane were being required by the City above and beyond the code to provide better safety for the development and surrounding area.

Chairman Galloway closed the public hearing and asked the Board for any discussion. Alternate Jarvis Morgan commended the speakers for speaking up and giving their opinions. Board member Michael Lucas made a motion to approve the request to allow for a twenty-five percent reduction in overall entryway landscaping, a variance from evenly distributing landscaping on either side of the entryway, as well as a variance from the requirement to provide a screening wall entry feature. Motion seconded by Board member Raymond Moyer. Motion passes with a 4-0 vote.

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**5. Adjournment.**

Board member Michael Lucas made a motion to adjourn. Motion was seconded by Member Raymond Moyer. Motion passes with a 4-0 vote. Chairman Galloway adjourned the meeting at 7:57 pm.

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Chairman

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Date